

1 CHAIRMAN POWELL: If we can keep it down  
2 to three minutes, that would be great. If you can  
3 state your name and where you come from and who you  
4 represent.

5 MR. KRATTENMAKER: When the red light  
6 comes on, please stop simply because we want to try to  
7 get everybody through. Sorry.

8 Sir?

9 UNIDENTIFIED SPEAKER: Thank you for  
10 taking time for those of the public outside the  
11 beltway that aren't being paid here today because I  
12 think those are the representations that you really  
13 are looking for because character ~~of~~ community is so  
14 important. And to have given a few communities the  
15 power of a light bulb in a low power FM station to do  
16 truly community programming by the community, for the  
17 community, to have gospel programs that originate in  
18 the community, to have working watermen that are -- my  
19 waterfront community to have shows is most, most  
20 important, to have the storytelling that comes out of  
21 your community. This is community programming.

22 I'm offended by the President of NBC to  
23 say that he can do community programming for our  
24 community. Shame on the National Public Radio for  
25 trying to keep my community from having a station, the

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1 power of a light bulb that is only meant to have the  
2 power to reach half the people half the time.

3 How about all the people all the time?  
4 And let's give other communities a frequency. How  
5 come corporations have all the frequencies and there's  
6 no frequencies left for the communities?

7 I would say the FCC has abdicated their  
8 job in that respect.

9 Thank you.

10 MR. KRATTENMAKER: Thank you for your  
11 comment.

12 (Applause.)

13 Every once in a while the moderator gets  
14 to step outside and I would say that it is interesting  
15 that, of course, sometimes you can deal with ownership  
16 issues by creating more things for people to own. As  
17 I indicated, so I sort of associate myself not  
18 necessarily with the conclusion, but the point of view  
19 spectrum management may be **an** issue here as well as  
20 competition, localism and diversity. Let me shut up.

21 Yes ma'am.?

22 MS. HALLICK (Phonetic): My name is DeeDee  
23 Hallick and I'm a co-author of a book which I  
24 recommend to the panel called Public Broadcasting and  
25 the Public Interest which just came out. It's M.E.

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1 Sharp are the publishers.

2 I am also a former professor of  
3 communication at the University of California, San  
4 Diego, where I taught for 17 years and also the past  
5 president of the Association of Independent Video and  
6 Film Makers which is in New York City and has  
7 membership of over 6,000 independent video and film  
8 makers.

9 I would just like to right now address the  
10 problem of getting independent documentaries on any  
11 kind of public or commercial television in the United  
12 States if your name isn't Ken Burns. With due respect  
13 to his work on the Civil War series, 17 percent of the  
14 public television prime time is Ken Burns, but where  
15 are the voices for everyone else?

16 There are many, many independent producers  
17 who do work, who want to work in documentaries and who  
18 cannot -- or are completely locked out of the  
19 commercial and the public television system; even  
20 people who are as popular as for example, Michael  
21 Moore, whose recent documentary has just broken all  
22 kinds of box office records. He has struggled to keep  
23 a very tiny toehold occasionally on any kind of  
24 television and right now he is completely locked out  
25 from that.

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1 I refer to my colleague Lee Lu Lee who is  
2 also on the Board of Directors **of** the AIVF, the  
3 Association of Independent Video and Film Makers.  
4 He's half Chinese and half African-American. A number  
5 of years ago he did a documentary on the history of  
6 the Black Panthers in the United States. It was a  
7 work he worked on for seven years, had incredible  
8 archival footage, was a very in-depth look at the  
9 Panthers and often quite critical of the leadership.  
10 His program was shown on 37 national systems around  
11 the world in Japan, in Holland, in England, in many,  
12 many -- Brazil even. And his program could not get on  
13 one channel in the United States, not one.

14 Finally, Black Entertainment Network did  
15 put it on two and a half years after he had finished  
16 making it. Where was the place for people to put on  
17 these kinds of programming? If you talk about the  
18 History Channel, you should ask Gore Vidal about his  
19 history with working with the History Channel. Here  
20 is an eminent intellectual, very important -- he was  
21 originally hired by them. He completely was disgusted  
22 with the way they wanted to portray history.

23 Look at Howard Zen. A number of people  
24 had put together a history series with him. He cannot  
25 get on anywhere. The History Channel turned it down.

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1 MR. KRATTENMAKER: Thank you. Sir?

2 (Applause)

3 MR. MOBLEY: Thank you. My name is Arthur  
4 Mobley and I am a broadcaster and entrepreneur and  
5 have been for a number **of** years. I have been involved  
6 also in the advocacy side. I worked for many years  
7 with the National Black Media Coalition and was a  
8 Western Regional Director for a number of years.  
9 Years ago, back when people like Mo Udall were  
10 complaining that the combined communications and the  
11 Gannett merger were tantamount to a whale swallowing a  
12 whale.

13 I think -- and we've come a long way since  
14 then. We've had a lot **of** whales and sharks and  
15 piranhas and all kinds of things developed since then.  
16 But I think that the missing link in what seems to be  
17 a problem with the Commission, with all due respect,  
18 is that we're not following the money. There's a  
19 money trail, very seriously, and what you've done and  
20 what you've reregulated over the last 10 years or so  
21 and the change that you've made have not encompassed  
22 following the money. You've dealt with the regulation  
23 and you've -- how many stations are here and there,  
24 but who benefits and how they benefit, how they make  
25 money has been left to the FTC and the SEC and other

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1 regulatory agencies and perhaps they should be here.

2 Also, and you should have maybe some joint  
3 discussions about this since they all are effective  
4 and have effect on the interest of all of the people  
5 here. But as a broadcaster, I mean it's a simple  
6 business situation. You give me an open -- a carte  
7 blanche to own as many of any kind of businesses as I  
8 want. What I'm going to do is I'm going to buy up as  
9 much as I can and then I am going **to** start minimizing  
10 my output of cash. I'm going to become less effective  
11 at serving local needs. I'm going to be less  
12 effective at getting all of those concerns and  
13 interests and those outlets taken care of and I'm  
14 going to be making as much money as I can. **So** I'm  
15 going to put a little sawdust in the hamburgers, you  
16 know? I'm going to put some junk out there. That's  
17 the nature of business in this country and  
18 broadcasting is no different.

19 People are putting out junk because they  
20 have too much opportunity to own too much and you  
21 should not be talking about keeping the standards.  
22 You should be talking about cutting them back. These  
23 standards need to be rolled back. Some of these big  
24 corporations need to get off some of these federal  
25 licenses because these licenses again are the property

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1 ultimately of the public. They are the people's  
2 airways and the Commission seems to have forgotten  
3 that or misplaced it somewhere, but please find it and  
4 if you have any doubts about where you're going,  
5 follow the money.

6 Study a little bit more about how people  
7 make money in these big companies and why we have so  
8 many attorneys and no one of any content or substance  
9 to come and talk to you other than sending their  
10 attorneys out.

11 (Applause.)

12 MR. KRATTENMAKER: Thank you. Yes ma'am.  
13 The woman at the microphone.

14 MS. CRUMMILLER (Phonetic): My name is  
15 Jenny Crummiller. I'm a member of a group from New  
16 Jersey, the Antiwar Video Fund. We produced a  
17 30-second TV ad and raised money to broadcast it. We  
18 contracted with Comcast Corporation to show the ad in  
19 Washington, D.C. Comcast is the only cable provider  
20 for Washington. Comcast put us in the schedule so our  
21 ad would be shown twice during prime time hours for  
22 three days in a row beginning the night of the  
23 President's State of the Union Address when he was  
24 expected to make his case for invading Iraq.

25 However, at the last minute, Comcast

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1 pulled our ad, supposedly because it was  
2 unsubstantiated. Obviously, the charge was totally  
3 arbitrary. Our ad is a montage of ordinary Americans  
4 making statements against war.

5 Regardless of whether this was intended to  
6 prevent our powerful message from undermining the  
7 President's speech, that is what Comcast did, since we  
8 had no time to find other ad time.

9 Whether by government or by corporation,  
10 centralized control of the media is un-American. When  
11 this happened, I felt like I was in Iraq. The ease  
12 and nonchalance with which Comcast pulled our ad makes  
13 clear this was not an isolated occurrence. Channel  
14 choice did nothing to give us a choice.

15 In terms of control over content, in terms  
16 of democracy, one corporation is one choice.

17 (Applause.)

18 MR. KRATTENMAKER: Thank you. Yes sir,  
19 the gentleman at the microphone.

20 MR. SPRUILL: My name is Lonell Spruill.  
21 I live within the 7th District of the House of  
22 Delegates. That's a part of Chesapeake and Suffolk,  
23 Virginia. I'm worried about the change in the FCC  
24 media ownership rules that would allow the newspaper,  
25 television, radio station to combine even more. As an

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1 elected official I can tell you how important this is  
2 to me.

3 There's not enough important about what's  
4 happening in our state. If my constituents don't know  
5 what's going on, they won't communicate their views to  
6 me. If the press only reports one side of the story,  
7 how can they reach their own judgment and make  
8 important decisions?

9 I'm so concerned, particularly about the  
10 issues pertaining to minority race. When it comes to  
11 minority race, the press does a poor job when it comes  
12 to that.

13 If we allow the media to combine even  
14 more, we will have fewer reporters and even fewer  
15 coverage on TV. It's most important that we don't let  
16 this happen.

17 As you know, in my area, home district in  
18 Chesapeake and Tidewater area, in 1996, we had 21  
19 different owners of radio stations. Now it has  
20 dropped down to 15. That's 20 percent. We have only  
21 three TV stations, local stations. I'm also worried  
22 about the impact of media concentration on  
23 advertising. That competition means air prices will  
24 go up. Also, it means it would be more difficult for  
25 groups to get heard through paid advertising.

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1 As the lady spoke earlier, last month,  
2 Comcast refused to air an ad opposed to the war in  
3 Iraq on a Washington, D.C. cable station after the  
4 State of the Union message. Since cable is a monopoly  
5 now, yet it was not heard. Guess what? I did not get  
6 aired.

7 As a former member of Bell Atlantic, I  
8 never lobbied. I am a lawyer member of the  
9 Communication Workers of America and labor disputes,  
10 labor often relies heavily on paid advertisement to  
11 get their message across. So if we allow this thing  
12 to be one sided can you imagine how it is now so far,  
13 the way thing are happening on unions? It's important  
14 that we let this thing stay open. Please, don't  
15 narrow it down any further. Thank you very much.

16 (Applause.)

17 MR. KRATTENMAKER: Thank you. The only  
18 way we're going to have an opportunity to try to hear  
19 everybody is we change it to a two-minute limit. I'm  
20 sorry, but that's what we're going to have to do.

21 Please.

22 MR. PRESTON: My name is Dan Preston. I'm  
23 a co-founder of the Anti-War Video Fund and I just  
24 want to give you an update on some of our experiences  
25 after Comcast censored our ad. To reach the D.C.

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1 audience, we did have an alternative, not on cable,  
2 but over broadcast. We approached all the network  
3 affiliates with our ad. NBC rejected it on grounds  
4 they would not specify. ABC never responded. We did  
5 get the ad accepted by the CBS affiliate and paid a  
6 lot more money to get it broadcast over the air than  
7 it would have cost on cable.

8 Now the insidious thing about censorship  
9 is this. You and the audience don't know what you're  
10 not seeing. You don't hear the voices that have been  
11 silenced. If fewer and fewer people own the  
12 microphones, the diversity of voices in our democracy  
13 will be strangled.

14 Now our story did get heard because it did  
15 receive substantial national and international press  
16 coverage on PBS, NPR, Canadian, French and Arabic TV,  
17 in print, on alternative and trade press, a few local  
18 newspapers, but for the most part not on the media  
19 properties owned by the major media conglomerates.

20 Now in particular, this one story, on the  
21 day of the State of the Union before all this stuff  
22 hit the Fan, a local Comcast news program prepared a  
23 story on our group, a nice peaceful Princeton group  
24 and it was going to air it on the Channel 8, the local  
25 Comcast news program. But when they heard that their

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1 parent company had censored our ad down in Washington,  
2 and the controversy then was arising about us, they  
3 canceled the story about us. And as they candidly  
4 admitted, not because they didn't think it was a good  
5 story, they wanted to run the story, but guess what?  
6 They told us they wanted to have jobs the next  
7 morning. **So** the censorship is here. It's real. It's  
8 not an unsubstantiated claim. It's happened to us.  
9 It will happen and it will happen more and more as the  
10 media gets more and more concentrated. Thank you.

11 (Applause)

12 MR. KRATTENMAKER: Thank you. Yes sir.

13 MR. LONG: Hi, my name is Nathan Long. I  
14 teach at Virginia Union University, a local  
15 historically black college here in town and I'm very  
16 happy to come after the delegate who just spoke  
17 because when we talk about the public airwaves, I  
18 really think we're talking about the public, we're not  
19 just talking about individuals, but we're specifically  
20 talking about citizens. And citizens, in order to be  
21 active in a democratic government, really need to have  
22 information and as media critic Robert McChesney says,  
23 the role **of** our newspapers and **of** our journalists are  
24 not to entertain us, not to give us what we want, but  
25 what we need.

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1           And more and more as corporations own the  
2 major ways of providing news, no matter how many news  
3 stations or how many newscasts there are, there are  
4 fewer and fewer political options and opinions in the  
5 news. If you look at the newspapers a hundred years  
6 ago, they were mostly owned by small local owners and  
7 had very staid positions. Now the majority of news is  
8 considered objective which **of** course means that it  
9 takes a very middle of the road politics. I think  
10 this is a real problem.

11           The other issue that I just want to bring  
12 up is if we hear corporations saying they are going to  
13 represent diversity and then you hear citizens saying  
14 no, they're not, I ask you seriously think which one  
15 is the person to listen to?

16           (Applause.)

17           And what are the motivations **of**  
18 corporations? Newspapers used to be owned because  
19 people wanted to say something. Now they're owned to  
20 make money. And that's going to effect what gets put  
21 out and what doesn't.

22           Thank you.

23           (Applause.)

24           MR. KRATTENMAKER: Thank you.

25           MS. KEKUS (Phonetic): My name is

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1 Christina Kekus and I'm a senior consumer studies  
2 major at Virginia Tech. Today, I'm delivering a  
3 statement to you on behalf of my advisor, Dr. Irene  
4 Leach who is the president of the Virginia Citizens  
5 Consumer Council, a Virginia statewide consumer  
6 education advocacy organization.

7 The Virginia Citizens Consumer Council is  
8 very concerned about the changes that you have  
9 proposed. We believe that removal of the restrictions  
10 on media ownership will have a very negative effect on  
11 society. Given the problems that exist even with the  
12 restrictions, consumers will be badly harmed if they  
13 are removed.

14 It is already difficult to get the media  
15 to address consumer concerns, especially when they are  
16 complex and big companies have different perspectives  
17 from consumers.

18 For example, Virginia has been involved in  
19 restructuring its electricity markets for over five  
20 years. During that time there has been very limited  
21 media coverage. In one media market neither a  
22 concerned local legislator, nor myself, were  
23 successful getting coverage as the critical decisions  
24 were made. They were told that the issue was too  
25 complex for people to understand.

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1           Recently, in another market, I had an op  
2       ed turned down but was told that a 100 to 200 word  
3       letter to the editor might be printed. However, it  
4       was not printed, even though it supported the  
5       editorial view of the newspaper. Several weeks later,  
6       a letter from someone else was printed on the topic.  
7       In the meantime, other issues were rehashed  
8       repeatedly, but electric issues never appeared as a  
9       matter to citizens, only to the editors.

10           If one entity is allowed to own multiple  
11       media outlets in the same market, it will be far too  
12       easy for that entity to totally control the public  
13       discourse. Citizens will hear one perspective  
14       regardless of whether they read the paper, listen to  
15       the radio or watch television. Many voices and  
16       perspectives will be lost. Many decisions will be  
17       made based on incomplete or incorrect information.  
18       Recent consolidation at radio stations has meant a  
19       loss of local news and weather reporting. For  
20       example, Clear Channel station's news all comes from  
21       Texas and my experience has been that there is little  
22       news.

23           This week, as I drove across Virginia in a  
24       snowstorm and wondered --

25           MR. KRATTENMAKER: Thank you very much,

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1 ma'am. You can submit that for the record.

2 MR. KRATTENMAKER: I'd like to thank  
3 everybody very much. One thing I learned when I was  
4 dean of a law school is you don't keep the faculty  
5 from eating lunch. I'm not going to keep the  
6 Commissioners from eating lunch.

7 Those of you who are standing in line, if  
8 you'll come up to Mr. Snowden, he'll get your name and  
9 guarantee you first spot the next open mike.

10 I'm sorry, we're just way over the time  
11 limit.

12 I would like to thank the panel very much  
13 and the open mike people very much. You went to a lot  
14 of trouble to come here. I must say, I must apologize  
15 to Mr. Ireland, I should have had him on as a  
16 responder. I didn't get to you and I'm sorry for  
17 that

18 I apologize to everybody who hasn't had a  
19 chance to speak yet. Please come back after lunch. I  
20 expect that you will.

21 Thank you.

22 (Whereupon, at 12:30 p.m., the hearing was  
23 recessed, to reconvene at 1:30 p.m.)

24

25 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

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1:30 P.M.

1  
2 MR. KRATTENMAKER: Welcome back. This is  
3 our panel on competition issues. People have asked  
4 that I begin with a half hour summary of some of the  
5 more interesting aspects of my life before I got to  
6 high school, but I've decided to pass that over.

7 A reminder that the rules under which  
8 we're operating are a five minute time limit for each  
9 of the panelists, strictly enforced, not because  
10 you're not important but simply on the grounds that  
11 everybody here is important and that we want to hear  
12 from everybody.

13 And are the Commissioners here? We're  
14 ready, Mr. Chairman?

15 CHAIRMAN POWELL: We're ready.

16 MR. KRATTENMAKER: Okay, Mr. Croteau?

17 MR. CROTEAU: Good afternoon. My name is  
18 David Croteau. I am a professor in the Department of  
19 Sociology and Anthropology right here in Richmond,  
20 Virginia. I think I'm the token local panelist today,  
21 I believe.

22 Good afternoon. I appreciate the  
23 invitation to comment at today's hearings. I believe  
24 local hearings such as this serve an important role.  
25 I certainly hope the FCC will sponsor more public

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1 hearings throughout the country in the coming weeks  
2 that will include more local voices and more time for  
3 the public to take part.

4 The media serve a unique role in  
5 democracies that value free and creative expression,  
6 independent thought and diverse perspectives. In  
7 recognition of this unique, public interest role, the  
8 free press is the only business explicitly protected  
9 in the U.S. Constitution.

10 We cannot, therefore, treat the media like  
11 any other industry. It's products are not widgets or  
12 toasters. They are culture, information, ideas and  
13 viewpoints. Consequently, we must be especially  
14 vigilant in protecting and preserving the public  
15 interest as it relates to this vitally important  
16 industry.

17 Unfortunately, relaxation or elimination  
18 of existing ownership regulations would move us in  
19 exactly the wrong direction. While increasing the  
20 profits of major media conglomerates such changes  
21 would, in all likelihood, promote further  
22 concentration of media ownership, thereby undermining  
23 competition, reduce the already limited diversity in  
24 commercial media content, and reduce the quality and  
25 sometimes the quantity of locally produced media

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1 content.

2 None of these are good for our country or  
3 for our democracy.

4 We don't need to speculate about the  
5 likely impact of deregulation on ownership  
6 concentration. We need only look at past experience.

7 The removal of the national cap on radio  
8 ownership in 1996 resulted in the dramatic  
9 concentration of ownership in that industry. In six  
10 years, the number of radio stations increased over 5  
11 percent, but the number of radio owners decreased by  
12 more than one third. A single corporation, Clear  
13 Channel Communications, went from owning 40 stations  
14 before the rule changes to owning over 1,200 stations  
15 today, five times as many as its nearest competitor.

16 Here, in Richmond, this translated into  
17 Clear Channel owning six local stations, resulting in  
18 a loss ~~of~~ competition and the loss of local content in  
19 favor ~~of~~ homogenized national programming. For  
20 example, WRVA, a Richmond institution, long known for  
21 its emphasis on local news and talk, was gutted after  
22 the Clear Channel takeover. Nearly every on-air  
23 personality was fired or resigned and public outcry  
24 filled local newspaper columns.

25 As one columnist put it, "in its embrace

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1 of nationally syndicated personalities to the  
2 exclusion of locals, Clear Channel has made it clear  
3 that it has no use for this community's talents,  
4 viewpoints and flavor."

5 In short, the deregulation of radio  
6 ownership has been a disaster for Richmond and many  
7 other communities across the country. This experience  
8 should be a cautionary tale in considering any future  
9 rule changes.

10 There is other empirical evidence which I  
11 will skip in the interest of time here today, but  
12 despite such evidence, the call to ease regulations  
13 continues to come from the corporations who would  
14 profit from such changes. These calls are often  
15 justified on the grounds that technology has changed  
16 our media landscape and therefore has made ownership  
17 regulations obsolete. This claim is not new. Every  
18 time new media technology has been introduced, whether  
19 it is radio, television, cable or the internet,  
20 enthusiasts have told us that everything has changed.  
21 But in fact, in each case, the fundamental questions  
22 about new media technologies have remained the same,  
23 including who will own and control them, what purpose  
24 will they serve, whose views and visions will be  
25 represented in the new medium?

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1 Technological changes in the media  
2 industry have not reduced the importance of regulation  
3 and the public interest. While the expansion of cable  
4 and the rise of the internet have produced more  
5 outlets, not much has changed in terms of who owned  
6 and controls these outlets, as we've heard earlier  
7 today.

8 New media outlets often do not mean new  
9 media content either. Instead, broadcast TV programs  
10 are recycled for cable channels. Newspaper and cable  
11 news content is repackaged for the internet and so on.  
12 Thus, despite changing technologies, what we still  
13 need are multiple, competing, diverse and independent  
14 sources of information and entertainment.

15 MR. KRATTENMAKER: Sir, your time is up,  
16 are you summarizing now?

17 MR. CROTEAU: Yes, yes. Some of which by  
18 the way need to be noncommercial, such as in low power  
19 radio.

20 MR. KRATTENMAKER: Thank you. Ms. Foley?

21 MS. FOLEY: Good afternoon, I'm Linda  
22 Foley, President of the Newspaper Guild Communications  
23 Workers of America. Thank you for allowing me to  
24 testify on behalf of the Newspaper Guild, CWA, the  
25 union that represents print journalists and their

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1 parent union, CWA, representing 700,000 workers  
2 including broadcast technicians and other media  
3 professionals.

4 Before my tenure with the Newspaper Guild,  
5 CWA, I was a reporter with the Knight Ridder Newspaper  
6 in Kentucky, so I'm going to talk about the  
7 competition for news.

8 The Commission's broadcast ownership rules  
9 are based on the first amendment principle that the  
10 widest possible dissemination of information from  
11 diverse and antagonistic sources is essential to  
12 public welfare.

13 First, we acknowledge that the media  
14 market is changing. No one knows this better than our  
15 members. There are more media outlets today than ever  
16 before, but there are fewer owners. And the fact  
17 remains that broadcast television and newspapers are  
18 probably far and away the dominant sources for local  
19 news and information.

20 The Newspaper Association of America  
21 reports that more than half the adult population reads  
22 a daily paper. Indeed, the Nielsen Study commissioned  
23 for this rulemaking shows that 63 percent of those  
24 surveyed identified newspapers as their source for  
25 local news and information. At the same time, Nielsen

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1 also showed that 85 percent rely on broadcast  
2 television for local news. Compare that to one third  
3 for radio and only 19 percent for the internet and  
4 remember, half of America still doesn't have internet  
5 access at home.

6 The dominance of TV news and newspapers  
7 and local news and information sources is all the more  
8 striking because, as the FCC's Waldfogel Study clearly  
9 indicates, consumers of news and information do not  
10 substitute sources, but rather use other media outlets  
11 to complement their primary source of news and  
12 information. Therefore, local ownership combinations  
13 that allow unfettered mergers of news operations of  
14 local broadcasters and daily newspapers, reduce the  
15 number of antagonistic news sources available to local  
16 citizens.

17 Local television and newspaper media  
18 markets are already highly concentrated. Most cities  
19 are one newspaper towns. While cable has increased  
20 the number of outlets, in most cities the top four  
21 over-the-air television stations still maintain more  
22 than 75 percent of the market share.

23 Simply increasing the number of outlets in  
24 a market does little to produce more antagonistic  
25 sources.

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1           The networks submitted a study that shows  
2       that of all 210 TV markets in the U.S., 70 percent  
3       have four or fewer stations carrying original, local  
4       news programming and 89 percent have five or fewer.  
5       Only 19 markets have local cable news shows and some,  
6       such as News Channel 8 in Washington, D.C. are owned  
7       by a local broadcaster.

8           Focussing on outlets, without considering  
9       market share and ownership, has led proponents of  
10      local market combinations to draw some interesting  
11      comparisons.     For example, the network's brief  
12      includes an in-depth analysis of the Milwaukee market.  
13      It gives equal weight to the website of the local  
14      hurling club and the Milwaukee Journal Sentinel. Now  
15      let's face it.    It's highly doubtful the Milwaukee  
16      Journal Sentinel will ever be scooped by the local  
17      hurling society.

18           When it comes to setting the local news  
19      agenda and local viewpoint diversity, diverse  
20      ownership, not the number of outlets is what matters.  
21      The brief filed by the CWA in this proceeding contains  
22      numerous examples that illustrate .the point.    One  
23      example, however, provides a striking demonstration  
24      about how concentration of media ownership can destroy  
25      localism, competition and diversity of viewpoints.

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1                   In     2001,     Canada's     second     largest  
2     commercial broadcast chain purchased Canada's largest  
3     newspaper chain and now controls 30 percent of the  
4     nation's daily newspaper circulation.     Within months  
5     of that merger, Canada West Global reversed journalist  
6     tradition of local editorial independence by mandating  
7     that its largest newspapers and all its broadcast news  
8     operations adhere to editorial viewpoints dictated by  
9     its headquarters in Winnipeg.     It wasn't too long  
10    before news stories were being edited and spun to  
11    conform to the editorial viewpoints.

12                  The     FCC     should     not     allow     mergers     in  
13    markets that are already highly concentrated and if  
14    mergers are permitted, the Commission should ensure  
15    that the combination is in the public interest and  
16    that antagonistic sources of news and information are  
17    preserved.

18                  CWA has proposed one way to do that, by  
19    requiring commonly owned media including duopolies to  
20    maintain separate newsroom and editorial staffs in  
21    order to preserve and promote diversity viewpoint.

22                  This     language     is     modeled     after     the  
23    Newspaper Preservation Act passed by Congress in 1970  
24    that allows common ownership and joint operation of  
25    business functions, but requires separate news and

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1 editorial staff. Our journalist members have worked  
2 under these arrangements for decades. They report  
3 that maintaining separate news operations does, in  
4 fact, foster competition among reporters for local  
5 scoops and varying news angles on local events.

6 Working reporters are employees of complex  
7 organizations and they work under what we call the  
8 invisible hand of the newsroom social control. Like  
9 athletes, journalists perform their best when they are  
10 challenged by competition and encouraged to do their  
11 own personal best. It is imperative therefore that  
12 the Commission adopt rules that protect the media from  
13 consolidation into fewer hands, an outcome that would  
14 do serious harm to the free flow of ideas that is so  
15 essential to civic participation in our democracy.

16 Thank you very much.

17 MR. KRATTENMAKER: Thank you. Mr. Miller?

18 MR. MILLER: I'm Victor Miller of  
19 Broadcast Equity and also for Bear Stearns. I've  
20 covered the industry for 15 years in lending an  
21 analytic capacity. Today, I'll discuss seven  
22 operating pressures facing broadcast networks and  
23 local stations as a context for my deregulatory  
24 stance.

25 First pressure is audience fragmentation

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1 and declining ad share. The national TV marketplace  
2 consists of 10 broadcast networks, 1400 commercial TV  
3 stations, 287 national and 56 regional cable networks.  
4 In 2001, the typical local household had 82 channels  
5 available versus 10 in 1980. This robust and  
6 option-filled marketplace accelerated by deregulatory  
7 changes made by Congress and the FCC has been good for  
8 consumers. However, robust competition has impacted  
9 TV industry economics. ABC, CBS, NBC networks have  
10 seen prime time viewing shares drop to 38 percent this  
11 year from 90 percent in 1980. Local TV stations share  
12 of media ad dollars has fallen to 15.5 percent last  
13 year, versus 18.3 percent in 1980 despite almost a  
14 doubling of the number of stations.

15 The second pressure *is* escalating  
16 programming costs. Even in the throes of declining  
17 ratings, the cost of network programming has increased  
18 by 30 percent for half hour sitcoms and by 50 percent  
19 plus for one hour dramas despite networks' increasing  
20 ownership stake in these shows after financial  
21 syndication rules were struck down in 1994.  
22 Escalation *of* some sports rights have priced sports  
23 off broadcast TV all together. Local ABC, CBS and NBC  
24 stations in turn on the local level are investing more  
25 heavily in local news spending \$1.5 billion in the top

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1 hundred markets on programming that most differentiate  
2 stations from other media.

3 The third pressure is high operating  
4 leverage. Recent financial results reported by  
5 broadcast TV players suggest that there are few  
6 operating efficiencies left in the business. High  
7 operating leverage means that the broadcast TV  
8 business is exposed to significant cash flow swings  
9 with changes in advertising. In 2000, local TV  
10 station industry revenues fell by 15 percent, but cash  
11 flow plummeted by 25 to 35 percent. The broadcast TV  
12 business was not well insulated from short term or  
13 long term declines in the business.

14 The fourth pressure is a consolidating  
15 cable business. Consolidation of the cable industry  
16 may be broadcast TV's greatest threat. In 2002, the  
17 top five MSOs controlled 72 percent of the nation's 74  
18 million cable households and in 15 of the top 25 media  
19 markets, one MSO controls at least 75 percent of the  
20 local markets wireline subscriber base. Increasing  
21 MSO concentration will make it more difficult for  
22 local TV broadcasters to have meaningful  
23 retransmission consent discussions. MSO concentration  
24 creates competition for TV stations' local ad dollars  
25 and programming franchise as well. We estimate one

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1 MSO captures \$1 billion in local cable advertising,  
2 surpassing that earned by the ABC owned and operated  
3 TV group. And perversely, 2002's appeals court ruling  
4 would allow an MSO to buy a local TV station or local  
5 TV and newspaper player is often restricted from these  
6 moves by current ownership rules. This anomaly alone  
7 begs for significant relief.

8 The fifth pressure is new technology.  
9 Early adoption of personal video recorders suggests  
10 that users skip ads at a 75 percent clip five times at  
11 the level of the previous technology VCRs.  
12 Advertising is free over the air TV broadcasting's  
13 sole revenue stream. If the ad only model breaks  
14 down, monthly subscriber fees would have to increase  
15 by \$39 per month to replace broadcast TV's lost ad  
16 revenue.

17 The sixth pressure is the lack of return  
18 on investment in digital TV. We estimate that local  
19 broadcasters will spend \$4 to \$6 billion rolling out  
20 digital TV with little obvious return available to  
21 that invested capital.

22 The seventh pressure is poor broadcast  
23 network economics. Broadcast networks are not very  
24 profitable. From 2000 to 2002, we believe the big  
25 four networks generated only \$2 billion in profits on

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1 approximately \$39 billion in revenue, a 5 percent  
2 margin. Without the most profitable network, margins  
3 fell to 1 percent.

4 My conclusion is if these seven operating  
5 pressures continue unabated and no deregulatory relief  
6 is afforded the industry, the viability of free over-  
7 the-air TV in the median term could be threatened.

8 Deregulation for networks -- I would say  
9 that in order to preserve the long term viability of  
10 the broadcast networks, we believe the FCC should  
11 relax the national station ownership rule to 50  
12 percent.

13 In the past, the networks have relied on  
14 launching cable networks and syndication to prove  
15 their overall TV economics. We believe these options  
16 will prove less valuable now, given the oversupply of  
17 cable inventory and static demand for syndicated  
18 product.

19 For the stations, in order to preserve the  
20 long term competitive viability of the local stations,  
21 we believe the FCC should substantially relax or  
22 eliminate newspaper broadcast cross ownership rules,  
23 given newspapers declining circulation, declining ad  
24 share and 28 year run without deregulation. A  
25 newspaper broadcast combination also has potential

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1 local and public service benefits as well.

2 Also, we believe the substantial relaxing  
3 **of** duopoly rules by extending this option to smaller  
4 TV markets who are operating in deficiencies is really  
5 needed. We support a rule that focuses on cumulative  
6 local audience shares such as NAB's 10-10 proposal,  
7 First Argyle's 30 percent local audience share  
8 proposal and triopolies in large markets.

9 On radio, we advocate the retention of the  
10 FCC's current radio market definition which was in  
11 place when Congress modified the local radio limits in  
12 1996. Any change now would upset the congressional  
13 scheme and potentially introduce new anomalies.  
14 Further, a change in market definition would be  
15 disruptive to the acquisition of radio properties,  
16 relative competitive positions **of** radio broadcasters,  
17 disposition of radio broadcasters and the capital  
18 markets.

19 Thank you.

20 MR. KRATTENMAKER: Thank you, Mr. Miller.

21 Mr. Munson?

22 MR. MUNSON: Thank you. Good afternoon  
23 and welcome to the other Virginia, Commissioners. We  
24 have the Northern Virginia and this is what we call  
25 the other Virginia here. **So** it's good to have you

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1 with us.

2 My name is Ed Munson, I'm the Vice  
3 President and General Manager of WAVY and WVBT-TV in  
4 Norfolk, Virginia. We're two broadcast TV stations  
5 licensed to the Norfolk - Portsmouth - Newport News,  
6 Virginia market.

7 My testimony today is basically the story  
8 of running two television stations in the market.  
9 When I arrived at WAVY in 1991 there were six  
10 commercial television stations operating in the  
11 Norfolk market. The two independent stations were  
12 struggling for survival. My recollection is that  
13 neither of them was profitable and certainly neither  
14 ~~of~~ them had an appreciable share of local viewing or  
15 local ad revenue. Despite the difficulties faced by  
16 these independents, yet another station went on the  
17 area, WVBT and it was launched in 1992. Needless to  
18 say, with those two struggling independents already on  
19 the air, there really wasn't much interest in WVBT  
20 from programmers, advertisers or viewers. The station  
21 was able to muster only enough initial capital to  
22 build a minimal technical facility whose signal could  
23 reach about 65 percent ~~of~~ the homes in the market.

24 Shortly after initiating operations, the  
25 station affiliated with the Home Shopping Network.

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1 While this business plan enabled the licensee to get  
2 on the air and with a small positive cash flow, the  
3 station really wasn't a serious competitor for viewers  
4 or a significant broadcast voice in our market. The  
5 solution was to partner with another local station, my  
6 station, WAVY, the NBC affiliate. In January 1995, we  
7 entered into a local marketing agreement with WVBT  
8 through which WAVY assumed day to day operations of  
9 the station under the licensee's supervision.

10 In May ~~of~~ 1996, we relocated the station's  
11 antenna to our 1,000 foot tower and increased its  
12 power to 5 million watts, for the first time reaching  
13 every home in the market. Because of those technical  
14 upgrades and the station's new promotion and  
15 advertising capabilities, WAVY was also able to land a  
16 network affiliation for WVBT with a fledgling WB  
17 Network shortly after we entered into the LMA.

18 Through WAVY's programming resources, we  
19 were able to assemble a competitive slate of  
20 syndicated product in local and regional sports  
21 programming the other stations in the market wouldn't  
22 want to carry. While we were able to grow our share  
23 of local advertising in the market from zero to nearly  
24 5 percent, we sustained operating losses of about \$2  
25 million before becoming cash flow positive in 1998.

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